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South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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## CONTENTS

Week in Review ..... 02

House Committee Action ..... 11

Bills Introduced in the House This Week ..... 14

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## WEEK IN REVIEW

### HOUSE

The House of Representatives concurred in Senate amendments to **H.3227** and ordered the bill enrolled for ratification. The bill **EXEMPTS FROM PROPERTY TAXES THE HOMES OF FORMER PRISONERS OF WAR AND MEDAL OF HONOR WINNERS**. The bill exempts from property taxes the dwelling home and a lot not to exceed one acre of land owned in fee or for life or jointly with a spouse by a resident of this State who is a recipient of the Medal of Honor or who was a prisoner of war in World War I, World War II, the Korean Conflict, or the Vietnam Conflict. The exemption is allowed to the surviving spouse under the same terms and conditions governing the property tax exemption for surviving spouses of permanently and totally disabled veterans. A person applying for this exemption must provide evidence of eligibility as may be required. The bill also provides that the **HOMESTEAD EXEMPTION** for taxpayers sixty-five and over or those totally and permanently disabled or legally blind is fifty thousand dollars.

The House approved **S.235** and ordered the bill enrolled for ratification. This legislation pertains to **VIDEOTAPING PUBLIC MEETINGS**. Current law allows all or any part of a meeting of a public body to be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction, except when a meeting is closed. This bill would allow individuals to videotape the meeting.

The House amended, approved, and sent to the Senate **H.3014**. This bill requires that a **NONRESIDENT OWNER OR OPERATOR OF A NONREGISTERED MOTOR VEHICLE** must respond within thirty days to a written inquiry by the auditor of any county in which public records show the nonresident owns or leases real or personal property, with a sworn written statement which provides specified information about the vehicles owned or operated by the nonresident, and which affirms that the nonresident has not established domicile in the county. The written inquiry by the auditor must be delivered in person or sent certified letter, return receipt requested, to the nonresident's last known address. The bill provides that violation of this provision is a misdemeanor. The bill also provides that a person who files a false sworn statement or willfully fails to respond to inquiry from the county auditor is guilty of a misdemeanor and, upon conviction, must be fined not more than \$1,000 or imprisoned not more than one year, or both, and must pay twice the amount all personal property taxes properly due and payable on the vehicle, and other vehicles owned now or earlier, if the vehicle had been registered lawfully pursuant to these provisions, plus penalties and interest.

The House amended, approved, and sent to the Senate **H.3048**, which enacts the **"SOUTH CAROLINA RELEASED TIME FOR RELIGIOUS AND CHARACTER EDUCATION ACT OF 2001."** The stated purpose of this bill, as amended, is to incorporate a constitutionally acceptable method of allowing religious instruction to the state's public school students during the school day in released time programs



that do not involve the expenditure of public funds to implement the programs. Under the bill, a school district board of trustees may adopt a policy that authorizes a student to be excused from school to attend a class in religious instruction conducted by a private entity if: (1) the student's parent or guardian gives written consent; (2) the sponsoring entity maintains attendance records and makes them available to the public school the student attends; (3) transportation to and from the place of instruction, including transportation for students with disabilities, is the complete responsibility of the sponsoring entity, parent, or guardian; (4) the sponsoring entity makes provisions for and assumes liability for the student who is excused; and (5) no public funds are expended and no public school personnel are involved in providing the religious instruction. The bill provides that a student is not considered to be absent from school while attending religious classes, and the student is responsible for making up any missed schoolwork. The bill also establishes criteria under which a school district board of trustees may award high school students an appropriate number of elective Carnegie units for the completion of released time classes in religious instruction.

The House approved **H.3465** and sent the bill, as amended, to the Senate. This bill **PROHIBITS THE UNAUTHORIZED CHANGE OF A CUSTOMER'S UTILITY PROVIDER**, a practice commonly referred to as "slamming." The legislation provides that utilities (telephone, water, electric, etc.) whose customers can choose providers may not change a customer's utility provider without obtaining the customer's authorization according to the marketing or anti-slamming guidelines specified in the legislation. A utility that violates the provisions is liable to the customer for all charges incurred by the customer, in excess of those normally incurred through his designated provider, during the period of the unauthorized change. A utility that willfully or knowingly violates the provisions is subject to a fine of not less than two thousand dollars nor more than ten thousand dollars for each violation. The fines are assessed by and must remain with the Public Service Commission. The legislation exempts from liability utilities acting as third parties such as local telephone companies that only administer changes in providers, and do not initiate them.

The House approved **H.3515** and sent the bill, as amended, to the Senate. This bill pertains to the regulation of the **FUNERAL SERVICE PROFESSION**. The legislation provides that a nonresident embalmer or funeral home director may be licensed in this State if the licensure requirements in his state are substantially similar to South Carolina's requirements. In instances where the requirements of another state are not substantially similar, five years of practice and passage of an examination is required for licensure in this State. The legislation establishes and defines permit requirements for retail sales outlets of funeral merchandise. The legislation codifies existing permit requirements for funeral homes, branch funeral homes, and crematories. The legislation prohibits soliciting the sale of funeral merchandise and clarifies other prohibitions. The legislation provides that all funeral directors and embalmers serving on the South Carolina State Board of Funeral Service must be actively employed or actively engaged in the funeral service profession.

## Legislative Update, March 27, 2001

The House approved **H.3366** and sent the bill, as amended, to the Senate. This bill pertains to **APPRAISAL FEES ON VACATION TIME-SHARING UNITS**. The legislation prohibits the seller of an interest in a vacation time-sharing unit from charging, as one of the purchase transaction fees, an appraisal fee. Instead, the legislation provides that the vacation time-share business may charge the owner a commission or marketing fee at the time of sale. A violation constitutes an unfair trade practice, and a violator is subject to a civil penalty not to exceed five thousand dollars per violation, and/or an injunction can be instituted.

The House amended, approved, and sent to the Senate **H.3403**, a bill relating to the **DISPOSITION OF CERTAIN PROPERTY OR MONIES BY A SHERIFF, CHIEF OF POLICE, OR THEIR DESIGNEE**. The bill authorizes a sheriff's designee or chief of police's designee to sell an abandoned vehicle at a public auction. Under the bill, as amended, the sheriff, chief of police, or their designee may turn over all proceeds of the sale of stolen or abandoned property to the county or municipal treasurer. Also, the designee of a sheriff, or designee of a chief of police, is authorized to sell certain vehicles at public auction seized from a person convicted of driving with a suspended driver's license, or driving under the influence of alcohol, drugs, or a combination of both substances.

The House approved and sent to the Senate **H.3633**. This bill provides that a **DELINQUENT TAX SALE FOR THE PURPOSE OF COLLECTING MUNICIPAL TAXES** and held in conjunction with a delinquent tax sale for the purpose of collecting county taxes may take place at the public place in the county that is designated by the county.

The House approved **H.3286** and sent the bill to the Senate. This bill increases the **SERVICE CHARGE FOR DRAWING FRAUDULENT CHECKS** of \$100 or less from \$25 to \$30.

The House amended, approved, and sent to the Senate **H.3529**, a bill making revisions to the **SOUTH CAROLINA TUITION PREPAYMENT PROGRAM ACT**. The bill revises the definition of "tuition" to mean, for the purpose of this legislation, registration or matriculation, credit-hour charges, and mandatory college fees, including athletic or activity, medical or infirmary and capital improvement fees, imposed by a public higher education institution in this State as a condition of enrollment of all full-time, undergraduate students regardless of class." (The current definition for "tuition" is "the credit hour charges imposed by a public higher education institution in this State and all mandatory fees required as a condition of enrollment of all students.") The bill clarifies that "tuition" does not include the expenses for student housing, meal plans, books, class or lab supplies and equipment, uniforms and laundry, transportation, course-specific fees, or any other fees or charges the program did not consider in determination of the annual contracting pricing structure. The bill also provides that the Program's funds, including any right of refund or any other right accrued by a person in the fund is exempt from legal process and is unassignable.



The House amended, approved, and sent to the Senate H.3533, a bill revising the **ANNUAL REPORT FROM THE COMMISSIONER ON HIGHER EDUCATION** that is required to be submitted to the Governor and General Assembly under the Education Accountability Act. Included in that report is certain specified information from each four-year, post-secondary institution in the state. H.3533 adds further information which must be submitted by these institutions for inclusion in the Commissioner's annual report. Specifically, this additional information includes assessment information for the institutions' Title II of the Higher Education Act of 1998 that collects and analyzes data on the applicant qualifications and the performance of the candidates and graduates. The bill also clarifies that the currently-required "appropriate information relating to each institution's role and mission" shall include policies and procedures to ensure that academic programs support the economic development needs in the State by providing a technologically skilled workforce.

The House amended, approved, and sent to the Senate H.3534, a bill which provides that South Carolina's public colleges and universities with teacher education programs should make the **PREPARATION OF TEACHERS** a fundamental part of the institution's mission, and should allocate resources to support this mission and to support professional development programs for practicing teachers and teacher education faculties to include technology training. Also, the bill provides that these institutions should give greater attention to attracting diversity in race and ethnicity in faculty and students; that all teacher education programs should strengthen alliances with K-12 education and with the business community, and critical workforce skills should be integrated into content and methods courses; and teacher education faculties should provide teacher candidates with a variety of effective teaching practices to ensure the state's diverse student population achieve at high levels of learning.

The House approved and sent to the Senate H.3485, a bill authorizing **SPECIAL LICENSE PLATES FOR MAYORS** of this State

The House amended, approved, and sent to the Senate H.3030, a bill providing that the **SOUTH CAROLINA HALL OF FAME LOCATED AT MYRTLE BEACH CONVENTION CENTER IS THE OFFICIAL STATE HALL OF FAME**. The bill also clarifies that the name of the Law Enforcement Officers Hall of Fame administered as an office of the Department of Public Safety is the "South Carolina Law Enforcement Officers Hall of Fame" rather than the "South Carolina Hall of Fame." The bill provides that references to the "South Carolina Law Enforcement Hall of Fame", "Hall of Fame", or "Hall", as contained in certain specified sections of the *South Carolina Code of Laws* shall be construed to mean the "South Carolina Law Enforcement Officers Hall of Fame" administered by the Department of Public Safety, and the Code Commissioner is directed to correct all references therein to correctly reflect this name.

## SENATE

**H.3303**, a bill ratifying the **LOTTERY AMENDMENT TO THE SOUTH CAROLINA CONSTITUTION** approved by voters at the general election of 2000, was read for the third time and returned to the House with an amendment. The bill eliminates the State constitution's prohibition on lotteries, their advertising, and ticket sales, and provides that lotteries may be conducted only by the State. The revenue derived from the lotteries must first be used to pay all operating expenses and prizes for the lotteries. The remaining lottery revenues must be credited to a separate fund in the state treasury, the 'Education Lottery Account,' and the earnings on this account must be credited to it. Education Lottery Account proceeds may be used only for education purposes as the General Assembly provides by law. The Senate's amendment is a technical amendment changing a reference from Joint Resolution 129 of 1999 to Act 129 of 1999.

The Senate amended, adopted, and returned to the House **H.3659**, a concurrent resolution inviting the winners of the **2001 JEAN LANEY HARRIS FOLK HERITAGE AWARDS** and the members of the 2001 Jean Laney Harris Folk Heritage Awards Advisory Committee to attend a joint session of the General Assembly to recognize and commend the 2001 Jean Laney Harris Folk Heritage Award winners for their contributions to folk art in South Carolina. As passed by the House, the concurrent resolution provided that the joint session would be at a time determined by the Speaker. The Senate amended the concurrent resolution so as to provide that the joint session would occur at a time mutually convenient for both bodies, as determined by the Speaker of the House and the President Pro Tempore of the Senate.

The Senate amended, read for the third time, and sent to the House **H.3053**, a bill pertaining to the means by which the state or its political subdivisions may recover losses that result from **EMBEZZLEMENT OR MISAPPROPRIATION OF PUBLIC FUNDS OR PROPERTY**. This bill creates a general lien upon any public retirement or pension plan not governed by ERISA (the Employee Retirement Income Security Act of 1974) of any public officer, public employee, or any other person who is convicted of an offense involving embezzlement or misappropriation of public funds or public property to the private use of himself/herself or any other person. The lien is to the extent of the total loss, damage, and expense to the State, to a county or municipality, or to any agency or political subdivision of the State, or to any state, county or municipal agency, any college or university, or to any school, special or public service district within the State, that is authorized by law to perform a governmental function or provide a governmental service.

The Senate amended **H.3053** so as to provide procedures whereby a convicted person's spouse or representative of the person's minor children may file a petition with the presiding judge requesting the judge resolve the lien, in whole or in part, in favor of the spouse or minor children because the spouse or minor children would suffer extreme financial hardship if the lien were to attach. Under the Senate's amendment, if the convicted person is divorced and subject to a Qualified Domestic



## Legislative Update, March 27, 2001

Relations Order, then the lien shall not attach to the alternate payee's portion of the retirement benefit, unless the alternate payee has been convicted of the same offense involving embezzlement of public funds for which the lien was created. Also under the Senate's amendment, if the convicted person's pension benefit is subject to an order for child support, then the lien shall not attach to the portion of the convicted person's benefit which goes to pay support for any minor child who has not been convicted of the same offense involving embezzlement of public funds for which the lien was created.

**H.3053** provides that the lien attaches upon the date of conviction and establishes other provisions regarding the duration of the lien. In addition to any to any other sentence imposed upon a person for embezzlement, the bill allows the presiding judge the option to require full restitution of all public funds embezzled and full payment for the conversion, use, and value of public property appropriated to private use. Also under **H.3053**, the presiding judge may provide for an indeterminate sentence of incarceration or probation, or both until restitution in full has been made. In cases where a living individual has been convicted of a pertinent offense, the lien attaches to applicable public retirement or pension plans immediately upon approval of the act by the Governor.

The Senate amended, read for the third time, and sent to the House **S.204**, a bill that creates the "**FAMILY PRIVACY PROTECTION ACT OF 2001.**" Under this bill, all state agencies, boards, commissions, institutions, departments, or other state entities by whatever name known must develop privacy policies and procedures to ensure that the collection, use and dissemination of personal information pertaining to South Carolina citizens is limited to such personal information statutorily required by any such agency, board, commission, institution, department, or other state entity and necessary to fulfill a legitimate public purpose. Additionally, any state entity which hosts, supports, or provides a link to a page or site accessible through the world wide web must clearly display its privacy policy and the name and telephone number of the state entity as well as the person responsible for administration of the policy.

The term "personal information" as defined by **S.204** means information that identifies or describes an individual, including, but not limited to, an individual's photograph or digitized image, social security number, date of birth, driver's identification number, name, home address, home telephone number, medical or disability information, education level, financial status, bank account(s) number(s), account or identification number issued by and/or used by any federal or state governmental agency or private financial institution, employment history, height, weight, race, other physical details, signature, biometric identifiers, and any credit record(s) or report(s). However, the term "personal information" **does not mean** information about vehicular accidents, driving violations, or driver status.

**S.204** prohibits a person or private entity from knowingly obtaining or using any personal information obtained from a public body for commercial solicitation directed to any person in this state. A person knowingly violating the provisions of this legislation is guilty of a misdemeanor and, upon conviction, must be fined an

## Legislative Update, March 27, 2001

amount not to exceed five hundred dollars or imprisoned for a term not to exceed one year, or both.

The Senate amended, read for the third time, and ordered sent to the House **S.60**. Under this bill, it is unlawful to: (1) cause great bodily injury to a person's own household member, or (2) offer or attempt to cause great bodily injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril. A person who violates this provision is guilty of the offense of **CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE**, a felony, and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than ten years, or both. Also under this bill, criminal domestic violence of a high and aggravated nature would be considered a violent crime. The bill also provides that evidence discovered as a result of a warrantless search administered pursuant to a complaint filed under Chapter 25 (Criminal Domestic Violence), Title 16 (Crimes and Offenses) is admissible in a court of law under certain circumstances.

**S.92**, relating to **PROBATE COURT** matters, was approved by the Senate and sent to the House. This legislation deletes the requirement that a deed of distribution be examined by the Probate Court before filing or that it be accompanied by an affidavit to attest to its accuracy and completeness in regard to the named grantee or grantees. Current law provides that unless notice has been given, a personal representative upon his appointment must publish a notice to creditors once a week for three successive weeks in a newspaper of general circulation in the county announcing his or her appointment and address and notifying creditors of the estate to present their claims within eight months after the date of the first publication of the notice or be forever barred. This legislation reduces the time frame that creditors of the estate have to make claims against the estate from eight months to four months.

**S.338**, relating to **LOBBYIST AND LOBBYIST PRINCIPALS**, was approved by the Senate and sent to the House. Current law provides that each lobbyist and lobbyist principal who ceases to engage in lobbying requiring the lobbyist or lobbyist principal to register must file a written statement with the State Ethics Commission acknowledging the termination of lobbying. Current law provides that the written statement of termination is effective immediately; **S.338** deletes this provision. Under this legislation, each lobbyist and lobbyist principal who files a written statement of termination must file reports during the period the lobbyist/lobbyist principal was registered. Current law requires lobbyists and lobbyist principals to register with the State Ethics Commission by January 5<sup>th</sup> of each year. Under this legislation, registration is for the remainder of the calendar year.

Also of interest this week, the full Senate Judiciary Committee gave a favorable report with amendment to **S.177**, legislation sponsored by Senator McConnell that would enact the **SOUTH CAROLINA EDUCATION LOTTERY ACT**. Also, the full Senate Judiciary Committee adopted a motion that would make **S.177** a committee bill. **S.496** is now the Senate Judiciary Committee bill. On Thursday, March 22, on



## Legislative Update, March 27, 2001

motion of Senator Martin, with unanimous consent, **S.496** was committed to the Senate Committee on Finance. Highlights of the legislation include the following:

- The South Carolina Lottery Corporation (corporation) and its employees are subject to the South Carolina Consolidated Procurement Code, South Carolina Administrative Procedures Act, South Carolina Ethics Reform Act, and the South Carolina Freedom of Information Act.
- Beginning in 2004 and every three years thereafter, the Legislative Audit Council must conduct a management performance audit of the South Carolina Lottery Corporation.
- The corporation is governed by a board composed of nine members to be appointed as follows: (1) six members must be appointed by the Governor with the advice and consent of the Senate, none of whom shall reside in the same congressional district as the others; (2) one member must be appointed by the President Pro Tempore of the Senate; (3) one member must be appointed by the Speaker of the House of Representatives; and (4) one member must be appointed by the Governor who must be designated by the Governor as an at-large member who shall serve as chairman of the board.
- The Governor must appoint a Lottery Retailer Advisory Board to be composed of ten lottery retailers, representing the broadest possible spectrum of geographical, racial, gender, and business characteristics of lottery retailers. Additionally, the Lottery Retailer Advisory Board may establish a consumer representatives committee to help provide additional insight on other aspects of lottery retail sales.
- The legislation states that it is the intent of the General Assembly that the corporation should encourage participation by minority businesses.
- Lottery game tickets or shares must not be sold to persons under eighteen years of age, but a person eighteen years of age or older may purchase lawfully lottery game tickets or shares and make a gift to a person of any age.
- A district board of trustees must not authorize or order the expulsion, suspension, or transfer of any pupil under eighteen years of age who has been found guilty of a misdemeanor for knowingly purchasing a lottery game ticket.
- No lottery tickets or shares may be sold on the date of any general election.
- Lottery prizes are subject to the South Carolina state income tax.

## Legislative Update, March 27, 2001

- The corporation must advertise and promote the lottery and lottery games in a dignified manner befitting the State. The board must establish an advertising policy to ensure that advertising content and practices do not target with the intent to exploit specific ethnic groups or economic classes of people, and that the content of the advertising is accurate and not misleading.
- The corporation must not employ, contract with, or otherwise authorize a lobbyist to engage in lobbying on behalf of the corporation.
- During the first year in which the lottery is operational, five hundred thousand dollars must be directed to the Department of Alcohol and Other Drug Abuse Services (DAODAS) for the treatment of compulsive gambling disorder and educational programs related to that disorder, including a gambling hotline. For succeeding years, at least five hundred thousand dollars but not more than one million dollars from unclaimed prize money must be directed annually to DAODAS for the same purpose, in such amount as determined by the board.
- To ensure the financial integrity of the lottery, the corporation through its board must submit quarterly and annual reports to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, State Auditor, Comptroller General, State Treasurer, and the South Carolina Education Lottery Oversight Committee disclosing the total lottery revenues, prize disbursements, operating expenses, and administrative expenses of the corporation during the reporting period.
- The legislation creates the South Carolina Education Lottery Oversight Committee which must periodically, but at least annually, inquire into and review the operations of the corporation.
- From its lottery proceeds, the corporation must pay the operating expenses of the corporation. At least fifty percent of the amount of money from the actual sales of lottery game tickets or shares must be made available as prize money.
- The net proceeds received from the state lottery for education must be deposited by the State Treasurer in a fund separate and distinct from the state general fund entitled the 'Education Lottery Account.' All interest or income earned by the fund must be retained in the account and used for its stated purposes.

The **FIRST ONE HUNDRED MILLION DOLLARS** in the Education Lottery Account must be appropriated as follows:

- (1) ***fifty percent*** to the Commission on Higher Education for free tuition at state technical colleges and two-year public institutions. Lottery tuition assistance at independent two-year institutions must



## Legislative Update, March 27, 2001

be the same as the maximum in-state tuition rate at a two-year public institution;

(2) **forty percent** for the SC HOPE Scholarship Program; from these funds, the University of South Carolina-Aiken and the University of South Carolina-Spartanburg must be reimbursed the total cost of tuition for those students enrolled in the associate degree nursing program; this amount is in lieu of HOPE scholarships for those eligible students; and

(3) **ten percent** to the Department of Education for primary and secondary school technology funding, pilot programs, and grants, which must include initiatives for public libraries.

The **REMAINING PROCEEDS** in the Lottery Education Account are appropriated as follows:

(1) **thirty percent** to the Commission on Higher Education for state technical colleges and two-year public institutions for an "institutional impact fee" to mitigate the impact of increased enrollment at these colleges and institutions as a result of the provision of free tuition;

(2) **forty percent** to the Commission on Higher Education for higher education assistance, including twenty percent for need-based grants, eight percent for tuition grants, eight percent for grants to teachers for advanced education, and four percent for the National Guard Tuition Repayment Program; a portion of the needs-based grants generated by the South Carolina Education Lottery must be designated to help off-set the cost of attendance of Pell Grant recipients at two-year public institutions; funding shall not be allocated to institutions to cover the cost of tuition for a student to the extent that a student's tuition is paid by other grants, scholarships, or other financial aid;

(3) **thirty percent** to the Department of Education for primary and secondary school technology funding, pilot programs, and grants, which must include initiatives for public libraries.

## JOINT ASSEMBLY

The Senate and the House of Representatives met in Joint Assembly at noon on Wednesday, March 21, as a part of "Creating Solutions for Disabilities Day" so as to endorse the "B.A.C.-Coffee Day for People with Special Needs" Project and other programs of the Easter Seals South Carolina.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

### EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

### JUDICIARY

The full Judiciary Committee did not meet this week.

### LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on March 20 and reported out several bills. The Committee gave a favorable report on **H.3598**, a bill that **PROHIBITS VEHICLE GLASS REPAIR BUSINESSES FROM OFFERING INCENTIVES FOR CUSTOMER REFERRALS**. The bill provides that it is an unfair trade practice and unlawful for a person who is engaged in the vehicle glass repair business to: (1) offer or make a payment to a third person for the third person's referral of an insurance claimant to the vehicle glass repair business for vehicle glass repairs; or (2) waive, rebate, give, or pay all or part of an insurance claimant's casualty or property insurance deductible as consideration for selecting the vehicle glass repair business.

The Committee gave a report of favorable with amendments on **H.3319**, the **SOUTH CAROLINA PERPETUAL CARE CEMETERY ACT**. This legislation brings statutory provisions related to cemeteries under a newly created enforcing public body, the Perpetual Care Cemetery Board, to be administered with the assistance of the Department of Labor, Licensing and Regulation. No such body has existed to enforce cemetery provisions since 1992 when the previous board under the Secretary of State was not reauthorized. In the absence of such a board, the Secretary of State and the Consumer Advocate have been involved in cemetery issues. The legislation establishes requirements for licenses that cemeteries would have to meet and provides for consumer protection provisions regarding the purchase of cemetery lots and merchandise and the operation of cemetery businesses. The legislation allows all existing cemeteries, whether or not they are perpetual care cemeteries, to continue to operate. Existing perpetual care



cemeteries must comply with the requirements of the legislation by January 1, 2002. Under the legislation, all new cemeteries are required to be perpetual care cemeteries except for government cemeteries, nonprofit cemeteries, church cemeteries, and family burial grounds.

The Committee gave a favorable report on **H.3613**, a bill that requires the **PALMETTO UTILITY PROTECTION SERVICE** (PUPS) to file an annual report with the Senate and House Labor, Commerce and Industry Committees detailing its activities and operations including such information as average speed of answer, abandoned call rate, transmit times, total number of locate requests, total number of transmissions, and a disaster recovery plan. The Palmetto Utility Protection Service is a corporation formed and funded by participating utility companies and municipalities to reduce damage to utilities in the interest of improved service and community and job safety. PUPS maintains a computerized notification center that someone intending to dig underground may contact to notify and receive information from the utilities that operate underground facilities.

**H.3148** was recommitted to the Business and Commerce Subcommittee. This bill revises laws governing the practice of **VETERINARY MEDICINE** so as to conform them to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation and to further provide for the licensure and regulation of the State Board of Veterinary Medicine.

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public, and Municipal Affairs Committee gave a report of favorable with amendment to **H.3290**, a bill revising the **PRACTICE OF OPTOMETRY**. The legislation modifies the current statutory limitation of the types of drugs an optometrist may use to diagnose and treat eye disease. Existing law allows optometrists to use topical drugs and four categories of oral drugs (antihistamines, antimicrobial, antiglaucoma, and analgesics) to treat eye disease. The legislation approved by the committee allows an optometrist to use any oral medication (except for Schedule I and II controlled substances) rational for the treatment of eye disease. The legislation specifically limits the use of these drugs so that, when used by an optometrist, they only can be used to treat eye disease. The legislation places additional conditions on an optometrist's use of oral steroids. When prescribing an oral steroid, an optometrist must consult with a physician prior to the prescription and notify the patient of the physician's recommendation. An optometrist may not consult with a physician without the prior consent of the patient. When an optometrist prescribes an oral steroid, a written report of this treatment must be made to the patient's primary care physician or to another physician or medical clinic designated by the patient. The legislation approved by the committee would allow an optometrist to use an epinephrine auto-injector (Epi-Pen) in an emergency to start treatment for anaphylaxis (allergic shock) if the patient's symptoms and medical history do not preclude its use. After an Epi-pen is used by an optometrist, the patient must immediately be triaged to an appropriate

medical facility. The legislation also eliminates several provisions that require optometrists to consult with and/or refer patients to physicians.

## WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

## BILLS INTRODUCED IN THE HOUSE

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

#### **H.3732 *RECIPROCAL AGREEMENTS ON SENIOR CITIZEN HUNTING AND FISHING LICENSES* Rep. Coates**

This bill authorizes the Department of Natural Resources to enter into reciprocal agreements with the duly authorized authorities of the states of Georgia, Florida, North Carolina, and Tennessee whereby a person sixty-five years of age or older who has a valid hunting or fishing license on his person issued by a reciprocating state, may hunt and fish in this State without purchasing a nonresident hunting or fishing license.

#### **S.447 *FISHING FOR SHAD, HERRING, AND STURGEON ON THE SANTEE RIVER* Sen. Grooms**

This bill revises provisions relating to seasons, times, methods, equipment, and size and take limits for shad, herring, and sturgeon in the Santee River so as to provide that there is no open season in the Rediversion Canal from St. Stephen Dam seaward to the seaward terminus of the northern dike of the Rediversion Canal. The bill provides that for the Rediversion Canal from the seaward terminus of the northern dike of the Rediversion Canal seaward to Santee River: the season is February 1 through April 30; 7:00 a.m. to 7:00 p.m. local time, Tuesday and Thursday; and that any lawful method and equipment may be used and no limits are set on size and take limits.

#### **H.3748 *BUSINESSES LAUNDERING MATERIAL THAT CONTAINS RADIOACTIVE WASTE* Rep. J. E. Smith**

This bill revises local planning and zoning provisions of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 so as to provide an exemption for a business whose primary purpose is to launder material containing radioactive material and is regulated by the Department of Health and Environmental Control pursuant to the provisions of Regulation 61-63 (Radioactive Materials). The bill provides that before locating the business, the Department of Health and Environmental Control first must give notice to the local governing body administering the pertinent zoning laws, advising of the exact site of the proposed



business. The notice also must identify the individual representing the department for site selection purposes. Notice must be published in a newspaper of general circulation in the municipality of the proposed location of the business thirty days before a zoning hearing is conducted concerning the site of the business. Areas may not be rezoned to allow the business to be located closer to an area zoned residential.

**H.3794 HUNTING PROHIBITED ON RIGHTS-OF-WAY IN GAME ZONE 5**

**Rep. Freeman**

This bill prohibits hunting on, shooting from, into, or across the right-of-way of a primary paved road in Game Zone 5. The legislation provides for the manner in which law enforcement officers may charge a person for a violation and for the penalties incurred.

**EDUCATION AND PUBLIC WORKS**

**S.384 MOTOR VEHICLE CLASSIFICATION Sen. Verdin**

This bill increases from six thousand pounds to six thousand, six hundred pounds, the maximum empty weight of a truck that the Department of Public Safety shall classify as a private passenger motor vehicle.

**H.3736 TEACHING OF SOUTHERN HISTORY Rep. Knotts**

This bill requires that the State Board of Education (the Board) examine the current status of the teaching of South Carolina history, and requires that by school year 2001-02, South Carolina public schools must provide instruction in southern history as a regular part of history and social studies courses. The bill requires the Board to establish regulations for the adoption of history and social studies textbooks which incorporate southern history, and requires the Board to assist the school districts in developing and locating suitable aids for instruction in southern history.

**H.3750 PROGRAMS AT SCHOOL FOR DEAF AND BLIND Rep. Davenport**

This bill prohibits from being administered by the School for the Deaf and Blind, or conducted on property under the jurisdiction of the school, any program for students who may harm or endanger or present a threat of harm or danger to the deaf, hard of hearing, blind, or visually impaired students.

**H.3751 LAMPS ON CERTAIN VEHICLES Rep. Knotts**

This bill repeals the code section which prohibits selling, offering for sale, or using any device or equipment which changes the original design or performance of lamps or reflectors required by law to be attached to motor vehicles, trailers, or semi-trailers unless the equipment or device has been approved by the director of the Department of Public Safety.

**H.3752 RESTRICTED DRIVER'S LICENSE Rep. Knotts**

This bill revises driver's license restrictions for minors who are at least sixteen years old and less than seventeen years old, who have held a permit for ninety days and who have passed the road tests or other requirements prescribed by the Department

of Public Safety. The bill adds travel between the licensee's home and church related events to current circumstances under which these restrictions may be modified or waived.

**H.3758 RURAL PORTIONS OF STATE'S HIGHWAYS Rep. Snow**

This bill authorizes the Department of Transportation to enter into contracts with bona fide farmers in the state's ten most economically disadvantaged counties to maintain the rights-of-way of rural portions of the state's highways.

**H.3766 SCHOOL SOCIAL WORKERS Rep. Littlejohn**

This bill requires that, in addition to being licensed as provided by law, school social workers must be certified by the Department of Education. The bill further requires that to renew certification, the school social worker must complete, within five years of being certified, six semester hours of course work related to the education profession.

**H.3768 EXEMPTIONS FROM MOTOR VEHICLE REGISTRATION AND LICENSING REQUIREMENTS Rep. Askins**

This bill provides an exemption from registration and licensing requirements for certain specified firefighting vehicles.

**H.3775 ELIGIBILITY FOR LIFE SCHOLARSHIP Rep. Bales**

This bill provides that, insofar as eligibility for the LIFE Scholarship is concerned, a student may have graduated from high school or preparatory school, or completed a home school program under specified conditions at any time, if the student is to attend or attends a technical college.

**H.3782 ANIMAL ABUSE PREVENTION LICENSE PLATE Rep. Miller**

This bill provides for animal abuse prevention special license plates, and provides that fifty percent of the fees collected for these plates will be distributed equally to animal shelters in each county.

**H.3785 PUBLIC SCHOOL FACILITIES Rep. Robinson**

This bill provides that any written document of the Department of Education or the State Board of Education providing guidelines, standards, codes, or specifications for public school facility planning, construction, improvement, or renovation which school districts are required to follow must be promulgated as a regulation and reviewed under the *Administrative Procedures Act*.

**H.3788 CAMPUS SECURITY Rep. Sharpe**

This bill changes the name of *South Carolina Code of Laws* Chapter 116 of Title 59, from "*Campus Security Department*" to "*Campus Safety Department*," and makes various other revisions to this chapter.

The bill revises the jurisdiction of campus police officers, which is currently limited to campus grounds and streets and roads through and contiguous to them, to a jurisdiction limited to duties associated as a police officer for official business of the respective institution. The bill deletes the current provision which prohibits campus



police officers from arresting persons outside the real property owned by their respective institutions. The bill also revises current provisions regarding emergency vehicles and patrol cars operated by campus police officers. The bill deletes the requirement that these vehicles bear the words "campus police" and provides that the vehicle's markings must provide "clear identification of the agency and institution." The bill also authorizes the chief law enforcement executive for each agency or institution to designate unmarked vehicles assigned to administrative, special, or investigative duties which must be operated in the manner provided by law for municipal and county law enforcement officers.

The bill requires that every campus safety department, with approval from the governing board of the institution concerned, shall promulgate and implement policies and procedures to provide for effective and efficient operation of the department and to direct employees or agents of the department with associated duties and responsibilities. The bill provides that nothing in these provisions prohibits a person from making a citizen's arrest.

The bill revises the penalty for violating the provisions of this section by increasing the minimum fine from fifty dollars to one hundred dollars, and by increasing the possible term of imprisonment from the current range of ten days to ninety days to a term of "not more than one year." Currently, a person who violates the provisions of this section may be fined and/or imprisoned. This bill provides that such a person must be fined or imprisoned.

The bill deletes the current provision which requires that expenses of training campus police officers must be paid by the institution by which that person is to be employed. The bill provides that institutions who continue to employ security guards or other security personnel must comply with the regulations and policies of the State Law Enforcement Division.

## JUDICIARY

### **S.204 "FAMILY PRIVACY PROTECTION ACT OF 2001" Sen. Hawkins**

Under this bill, all state agencies, boards, commissions, institutions, departments, or other state entities by whatever name known must develop privacy policies and procedures to ensure that the collection, use and dissemination of personal information pertaining to South Carolina citizens is limited to such personal information statutorily required by any such agency, board, commission, institution, department, or other state entity and necessary to fulfill a legitimate public purpose. Additionally, any state entity which hosts, supports, or provides a link to a page or site accessible through the world wide web must clearly display its privacy policy and the name and telephone number of the state entity as well as the person responsible for administration of the policy.

This bill prohibits a person or private entity from knowingly obtaining or using any personal information obtained from a public body for commercial solicitation directed to any person in this state. A person knowingly violating the provisions of

this legislation is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed five hundred dollars or imprisoned for a term not to exceed one year, or both.

The term "personal information" means information that identifies or describes an individual, including, but not limited to, an individual's photograph or digitized image, social security number, date of birth, driver's identification number, name, home address, home telephone number, medical or disability information, education level, financial status, bank account(s) number(s), account or identification number issued by and/or used by any federal or state governmental agency or private financial institution, employment history, height, weight, race, other physical details, signature, biometric identifiers, and any credit record(s) or report(s). However, the term "personal information" **does not mean** information about vehicular accidents, driving violations, or driver status.

**H.3730 JURISDICTION OF THE ADMINISTRATIVE LAW JUDGE**  
**DIVISION Rep. Harrison**

This bill grants the Administrative Law Judge Division (ALJD) jurisdiction to hear cases related to the level, custody, sentence calculation, assignment transfer, discipline, or conditions of imprisonment of an inmate assigned to the Department of Corrections. The bill also grants the ALJD jurisdiction to hear cases involving the denial or revocation of probation or parole by the Department of Probation, Parole, and Pardon Services. Additionally, the bill provides that for post conviction relief applications based on decisions in inmate grievance matters, the application must be filed within thirty days after the final decision of the Department of Corrections in inmate grievance matters involving sentence-related credits or other conditions of imprisonment.

**H.3734 UNLAWFUL CARRYING OF A PISTOL** Rep. Knotts

Currently, only retired commissioned law enforcement officers who are employed as private detectives or private investigators may lawfully carry a pistol. The bill deletes the requirement that retired law enforcement officers must work as private investigators or detectives in order to lawfully carry a pistol. This bill allows all previously commissioned officers to lawfully carry a pistol anywhere within the State. Additionally, this bill authorizes a certified law enforcement officer from any jurisdiction who complies with his or her employing agency's firearms policy to lawfully carry one or more firearms while off duty in this State. This bill also makes grammatical changes to *South Carolina Code of Laws* §16-23-20, the statute relating to the unlawful carrying of a pistol and exceptions.

**H.3738 NONPARTISAN ELECTION OF SCHOOL BOARDS TRUSTEES**  
**Rep. Townsend**

This bill provides that members of the boards of trustees for the school districts of this State must be elected in nonpartisan elections beginning in 2002. Unless local provisions of law provide for a different date, these nonpartisan elections shall occur on the first Tuesday after the first Monday in November in either an odd-numbered year or an even-numbered year beginning in 2002, as determined by the



entity charged by law with setting the election date for school trustees in any district.

**H.3744 EXCEPTIONS TO OFFENSES INVOLVING WEAPONS** Rep. Sharpe

Under this bill, certain offenses involving machine guns, sawed-off shotguns, and rifles do not apply to any person authorized to possess these weapons by the United States Department of the Treasury, the Bureau of Alcohol, Tobacco and Firearms, or any other federal agency empowered to grant this authorization.

**H.3745 ACTION TO RECOVER DAMAGES FOR INJURY TO A PERSON  
ARISING OUT OF AN ACT OF SEXUAL ABUSE OR INCEST**

Rep. J.E. Smith

This bill provides that an action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or four years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later. Under the bill, parental immunity is not a defense against claims based on sexual abuse or incest that occurred before, on, or after the effective date of this legislation. Notwithstanding any other provision of law, under this bill a person who before this legislation's effective date filed an action to recover damages for injury arising out of sexual abuse or incest which was barred for failure to bring the action within the time required by the statute of limitations in effect at that time has four years from this legislation's effective date to bring an action based on that abuse or incest.

**H.3746 CORPORAL PUNISHMENT ADMINISTERED BY AN OPERATOR,  
EMPLOYEE, OR CAREGIVER OF A CHILD DAYCARE FACILITY**

Rep. J.E. Smith

This bill pertains to definitions used in the Children's Code, so as to revise the definition of "harm" to include corporal punishment administered by an operator, employee, or caregiver of a child daycare facility.

**H.3753 POSSESSION OF ALCOHOL BY PERSONS UNDER THE AGE OF  
TWENTY-ONE** Rep. Hinson

This bill provides that before an underage person arrested for possession of beer, ale, wine, malt, or alcoholic liquors is released from custody, the law enforcement agency that made the arrest must obtain positive identification from the person to ensure that the person who was arrested is the person who is released from custody.

**H.3756 FAMILY COURT JURISDICTION** Rep. Wilkins

Under this bill, the family court has exclusive jurisdiction to hear and determine matters relating to the validity of premarital agreements and the effect of these agreements on issues otherwise within family court jurisdiction.

**H.3761 COUNTERFEIT MARKS** Rep. Knotts

Under this bill, the term "counterfeit mark" means a mark that is used in connection with the sale or offering for sale of goods or services that are identical to or

substantially indistinguishable from the goods or services with which the mark is used or registered, and the use of which is likely to cause confusion, mistake, or deception, with the use occurring without authorization of the: (a) owner of the registered mark, and is identical to or substantially indistinguishable from a mark that is registered on the principal register of the United States Patent and Trademark Office or with the South Carolina Secretary of State; or (b) owner of the unregistered mark and is identical to or substantially indistinguishable from symbols, signs, emblems, insignias, trademarks, trade names, or words protected by the federal Amateur Sports Act of 1978.

Additionally, the bill provides that the possession, custody, or control of more than twenty-five items having a counterfeit mark creates a presumption that the person having possession, custody, or control of the items intended to sell those items. Any personal property employed as an instrumentality in the commission of, or in aiding or abetting in the commission of a violation of this legislation, is considered contraband and as such is subject to seizure and forfeiture in the same manner other property may be seized and forfeited if used in the commission of specified criminal offenses as provided by law.

Penalties are as follows:

- If the goods or services having a counterfeit mark used thereon or in connection therewith, or on or in connection with which the person intends to use a counterfeit mark, have a retail sales value not exceeding three thousand dollars, the person is guilty of a misdemeanor and must be punished by a fine not exceeding three thousand dollars or a term of imprisonment not exceeding three years.
- If the goods or services having a counterfeit mark used thereon or in connection therewith, or on or in connection with which the person intends to use a counterfeit mark, have a retail sales value exceeding three thousand dollars but not exceeding ten thousand dollars, the person is guilty of a felony and must be punished by a fine not exceeding five thousand dollars or a term of imprisonment not exceeding five years.
- If the goods or services having a counterfeit mark used thereon or in connection therewith, or on or in connection with which the person intends to use a counterfeit mark, have a retail sales value exceeding ten thousand dollars, the person is guilty of a felony and must be punished by a fine not exceeding ten thousand dollars or by a term of imprisonment not exceeding ten years.
- Any person who knowingly (1) uses any object, tool, machine, or other device to produce or reproduce a counterfeit mark; or (2) has possession, custody, or control of any object, tool, machine, or device with intent to produce or reproduce a counterfeit mark, is guilty of a felony and must be punished by a fine not exceeding five thousand dollars or by a term of imprisonment not exceeding five years.



Legislative Update, March 27, 2001

**H.3767 LEGAL ACTIONS BASED UPON A DEFECTIVE OR UNSAFE  
CONDITION OF AN IMPROVEMENT TO REAL PROPERTY**

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**LEGISLATIVE UPDATE**

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